

ASSEMBLY, No. 137

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

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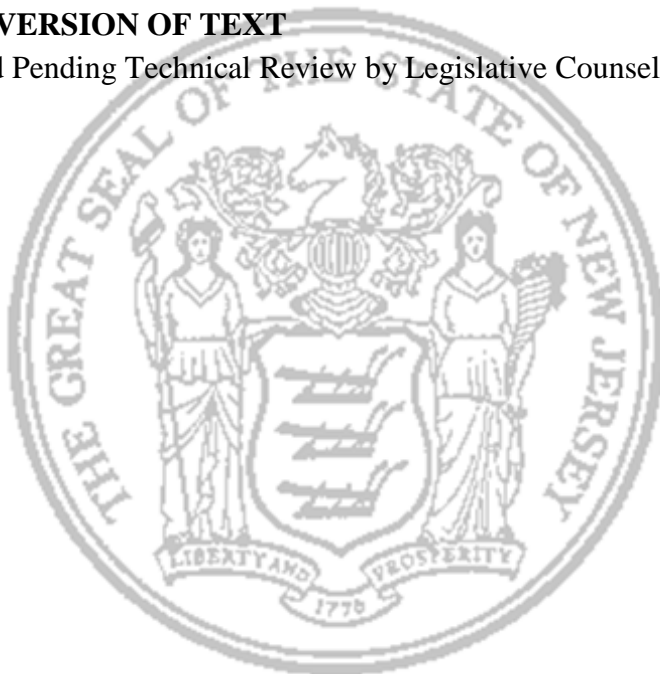
Assemblyman Wirths

SYNOPSIS

Provides for early termination of terms of office for certain appointed municipal court positions when two or more municipalities enter into agreements to establish joint or shared municipal courts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning municipal courts and amending N.J.S.2B:12-4,
2 P.L.1997, c.256 and P.L.1999, c.349.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. N.J.S.2B:12-4 is amended to read as follows:

8 2B:12-4. Judge of municipal court; term of office; appointment.

9 a. Each judge of a municipal court shall serve for a term of
10 three years from the date of appointment and until a successor is
11 appointed and qualified; provided, the three year term may be
12 terminated before its scheduled date of expiration if a municipality
13 enters into an agreement to establish a joint municipal court under
14 subsection b. of N.J.S.2B:12-1 or to provide for a shared municipal
15 court under subsection c. of N.J.S.2B:12-1. Any appointment to fill
16 a vacancy not caused by the expiration of term shall be made for the
17 unexpired term only. However, if a county or municipality requires
18 by ordinance that the judge of the municipal court devote full time
19 to judicial duties or limit the practice of law to non-litigated
20 matters, the first appointment after the establishment of that
21 requirement shall be for a full term of three years.

22 b. In municipalities governed by a mayor-council form of
23 government, the municipal court judge shall be appointed by the
24 mayor with the advice and consent of the council. Each judge of a
25 joint municipal court shall be nominated and appointed by the
26 Governor with the advice and consent of the Senate. In all other
27 municipalities, the municipal judge shall be appointed by the
28 governing body of the municipality.

29 c. In a county that has established a central municipal court,
30 the judge of the central municipal court shall be nominated and
31 appointed by the Governor with the advice and consent of the
32 Senate. In those counties having a county executive, the county
33 executive may submit the names of judicial candidates for judge of
34 the central municipal court to the Governor. In all other counties,
35 the governing body may submit the names of judicial candidates for
36 judge of the central municipal court to the Governor.

37 (cf: P.L.1996, c.95, s.3)

38
39 2. Section 4 of P.L.1997, c.256 (C.2B:24-4) is amended to read
40 as follows:

41 4. a. A municipal public defender shall be an attorney-at-law
42 of this State in good standing, and shall serve for a term of one year
43 from the date of his appointment , unless this term is terminated
44 before its scheduled date of expiration in relation to the appointing
45 municipality's entrance into an agreement to establish a joint

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 municipal court under subsection b. of N.J.S.2B:12-1 or to provide
2 for a shared municipal court under subsection c. of N.J.S.2B:12-1,
3 and may continue to serve in office pending re-appointment or
4 appointment of a successor. A municipal public defender may be
5 appointed to that position in one or more municipal courts. The
6 provisions of this act shall apply to each such position held. A
7 municipal public defender need not reside in the municipality where
8 he acts as a municipal public defender.

9 b. A municipal public defender of a joint municipal court shall
10 be appointed upon the concurrence of the governing bodies of each
11 of the municipalities in accordance with applicable laws, ordinances
12 or resolutions.

13 c. In accordance with applicable laws, ordinances and
14 resolutions, a municipality may appoint additional municipal public
15 defenders as necessary to administer justice in a timely and
16 effective manner in its municipal court. Additional appointments
17 shall be subject to the provisions of this act, including appointments
18 in a joint municipal court.

19 d. Appointments to fill vacancies in the position of municipal
20 public defender shall be made in accordance with the provisions of
21 this act as soon as practicable.

22 e. In addition to any other means provided by law for the
23 removal from office of a public official, a municipal public
24 defender may be removed by the governing body of a municipality
25 for good cause shown and after a public hearing, and upon due
26 notice and an opportunity to be heard. Failure to reappoint a
27 municipal public defender for a second or subsequent term does not
28 constitute a "removal from office" within the meaning of this
29 subsection.

30 f. The municipal public defenders may represent private
31 clients in any municipality, including the municipality where they
32 act as a municipal public defender, subject to Chapter II of Part I of
33 the Rules of Court [Governing the], titled Conduct of Lawyers,
34 Judges and Court Personnel.

35 (cf: P.L.1997, c.256, s.4)

36
37 3. Section 4 of P.L.1999, c.349 (C.2B:25-4) is amended to read
38 as follows:

39 4. a. Each municipal court in this State shall have at least one
40 municipal prosecutor appointed by the governing body of the
41 municipality, municipalities or county in accordance with
42 applicable laws, ordinances and resolutions.

43 b. (1) A municipal prosecutor shall be an attorney-at-law of
44 this State in good standing, and shall serve for a term of one year
45 from the date of his or her appointment, except as provided under
46 paragraph (2) of this subsection, or except as determined by the
47 governing body of a county or a city of the first class with a
48 population greater than 270,000, according to the latest federal

1 decennial census, or the governing body of a city of the second
2 class with a population of greater than 30,000 but less than 43,000,
3 according to the latest decennial census, which city of the second
4 class is located in a county of the first class with a population less
5 than 600,000 according to the latest federal decennial census, and
6 may continue to serve in office pending re-appointment or
7 appointment of a successor. A municipal prosecutor may be
8 appointed to that position in one or more municipal courts. The
9 provisions of this act shall apply to each such position held.

10 (2) The term of any municipal prosecutor may be terminated
11 before its scheduled date of expiration if a municipality enters into
12 an agreement to establish a joint municipal court under subsection
13 b. of N.J.S.2B:12-1 or to provide for a shared municipal court under
14 subsection c. of N.J.S.2B:12-1.

15 c. (1) A municipal prosecutor of a joint municipal court shall
16 be appointed upon the concurrence of the governing bodies of each
17 of the municipalities in accordance with applicable laws, ordinances
18 or resolutions.

19 (2) A municipal prosecutor of a central municipal court shall be
20 appointed by the governing body of the county.

21 d. Municipal prosecutors shall be compensated either on an
22 hourly, per diem, annual or other basis as the county, municipality
23 or municipalities provide. In the case of a joint municipal court,
24 municipalities shall, by similar ordinances, enter into an agreement
25 fixing the compensation of the municipal prosecutor and providing
26 for its payment. In the case of a central municipal court, the county
27 shall fix the compensation of the municipal prosecutor and provide
28 for its payment.

29 The compensation of municipal prosecutors shall be in lieu of
30 any and all other fees; provided, however that when a municipal
31 prosecutor is assigned to prosecute a de novo appeal in the Superior
32 Court, the prosecutor shall be entitled to additional compensation
33 unless the municipality expressly provides otherwise at the time the
34 compensation is fixed.

35 e. In accordance with applicable laws, ordinances and
36 resolutions, a municipality may appoint additional municipal
37 prosecutors as necessary to administer justice in a timely and
38 effective manner in its municipal court. Such appointments shall be
39 subject to this act. This subsection also applies to joint municipal
40 courts and central municipal courts.

41 f. Any municipal court having two or more municipal
42 prosecutors shall have a "chief municipal prosecutor" who shall be
43 appointed by the governing body of the county or the municipality.
44 The chief municipal prosecutor of a joint municipal court shall be
45 appointed upon the concurrence of the governing bodies of each
46 municipality. The chief municipal prosecutor shall have authority
47 over other prosecutors serving that court with respect to the
48 performance of their duties.

1 g. (1) Nothing in this act shall affect the appointment of
2 municipal attorneys in accordance with N.J.S.40A:9-139; provided,
3 however, that a person appointed to the positions of both municipal
4 prosecutor and municipal attorney shall be subject to all of the
5 provisions of this act while serving in the capacity of municipal
6 prosecutor.

7 (2) In addition to any other duties proscribed by the provisions
8 of this act, a person serving as both a municipal prosecutor and a
9 municipal attorney may prosecute county or municipal ordinance
10 violations.

11 (cf: P.L.1999, c.349, s.4)

12
13 4. This act shall take effect immediately.
14
15

16 STATEMENT
17

18 This bill provides for the early termination of terms of office for
19 certain appointed municipal court positions when two or more
20 municipalities enter into agreements to establish joint municipal
21 courts or shared municipal courts pursuant to subsection b. or c. of
22 N.J.S.2B:12-1 respectively.

23 Under current law, municipal court judges are appointed to a
24 three-year term pursuant to N.J.S.2B:12-4, municipal public
25 defenders are appointed for a one-year term under section 4 of
26 P.L.1997, c.256 (C.2B:24-4), and municipal prosecutors are
27 generally appointed for a one-year term under section 4 of
28 P.L.1999, c.349 (C.2B:25-4). This bill amends each of these
29 sections of law to allow municipalities that enter joint or shared
30 municipal court agreements the express authority to terminate the
31 existing terms of office for any such municipal court positions prior
32 to the scheduled date of expiration of these position's terms as
33 necessary, in order to facilitate the sharing of services established
34 by the agreements.